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2022:SB05

Date: February 22, 2022

Memorandum to: Senior Business Officials

From: Romina Di Pasquale
Director
Enrolment, Funding and Labour Policy Branch

Subject: **Elementary Teachers' Federation of Ontario (ETFO) Remedy Award**

On February 2, 2022, the Elementary Teachers' Federation of Ontario (ETFO) remedy arbitration award was issued in relation to the *Putting Students First Act, 2012* and the Ontario Superior Court of Justice ruling in April 2016. The following outlines the terms of the award, the ministry's request for assistance from school boards to collect relevant information on ETFO members to facilitate distribution of the award, and timelines for making the one-time general damage payments to compensate eligible ETFO teachers and education workers.

Similar to the remedy agreements reached with other bargaining agents, school boards will make payments to eligible ETFO members. The necessary funding will be provided by the ministry to school boards through a Transfer Payment Agreement (TPA). In an effort to assist school boards in administering this arbitration award, the ministry will include in the TPA additional funding equivalent to approximately 1.25 percent of the remedy funding allocation, with the exception of a few school boards that will receive a flat rate amount due to the relatively small number of ETFO members.

Summary of the ETFO Remedy Award

The award requires the Crown to compensate eligible ETFO members with a payment of up to \$1,606, capped to a total maximum payment amount of \$103.1 million. The amount to be paid

to each eligible ETFO member will depend on the total number of ETFO members eligible for payment and will be apportioned based on the employee's employment status in the 2012-13 and 2013-14 school years using the due diligence process outlined below.

Eligible ETFO Members

Permanent Employees and Long-Term Occasional Teachers

An ETFO member who is a permanent employee or long-term occasional teacher is eligible to receive a payment determined as follows:

- one full-time equivalency (FTE) in both school years will receive the maximum calculated payment.
- one FTE in either the 2012-13 or 2013-14 school year will receive half of what will be paid to an ETFO member who worked one FTE during both school years.
- Less than one FTE in either or both 2012-13 and 2013-14 school years will receive a prorated portion of the maximum payment based on FTE status. For clarity, an eligible ETFO member who did not work the entire school year may qualify for a partial payment in that year. The minimum payment for an eligible ETFO member who worked less than one FTE is \$200.

An ETFO member who was on a paid or unpaid leave under the provisions of a collective agreement or on a statutory leave, such as maternity or parental leave, at any point during either or both of those school years is also entitled to the payment based on their FTE status prior to their leave. This includes any leaves pursuant to the sick leave and long-term disability provisions of the collective agreement or under the *Workers' Compensation Act*.

An ETFO member who received a payment under a remedy agreement with another bargaining agent will have their ETFO payment adjusted accordingly so as not to exceed the highest remedy entitlement in respect of that school year.

Occasional Teachers

ETFO members who were employed *exclusively* as occasional teachers during the 2012-13 and 2013-14 school years are also eligible to receive \$200 under this award provided they worked for at least 150 days in the two-year period with at least 50 days worked in the 2012-13 school year and 50 days worked in the 2013-14 school year.

No ETFO member who retired prior to the commencement of the 2012-2013 school year and was re-employed during 2012-13 or 2013-14 in an ETFO represented position is entitled to a remedy payment.

Remedy Agreement Timelines

Enclosed with this memo is a data collection template school boards are required to complete with employment data necessary to facilitate the calculation of the payment per eligible ETFO member based on the eligibility rules outlined above. School boards are asked to complete this request using their best available data and submit it to the ministry at benefits@ontario.ca for review no later than **April 19, 2022**. The ministry will make every effort to provide employment data to ETFO by May 1, 2022 (90 days following the arbitral award). **If a school board is unable to meet this deadline, please contact the ministry immediately.**

Other Approximate Timelines	
August 1, 2022	Deadline for ETFO to complete due diligence review ETFO to notify its members of payment
September 1, 2022	Deadline for ETFO members to object to the determination in the notice and for ETFO to refer to arbitration any disputes in individual members' entitlement
November 1, 2022	If there is any dispute related to the provision of data, it will be referred to the arbitrator and resolved within 60 days of the deadline for objections to be raised. Depending on the outcome of the due diligence review, the data may be subject to dispute resolution.
February 1, 2023	Crown to calculate the payment per eligible member and provide payment to school boards within 90 days of the steps completed above
April 1, 2023	TPAs issued to school boards. School boards to issue payments to entitled ETFO members within 60 days following receipt of the calculated payment amount per eligible member and funding from the Crown with further details to be provided later.

The ministry will provide the TPA along with updates on these timelines towards the end of the due diligence process.

Thank you for your cooperation and support in assisting with the implementation of this award.

For general questions on the award or the process outlined above, please contact Emily White at Emily.White@ontario.ca or 647-643-3180 or Nicholas Grieco at Nicholas.Grieco@ontario.ca or 437-221-9776. For questions about data collection and the data collection template, please contact Brad Partington at Brad.Partington@ontario or 647-646-3446 or Jeff Lewis at Jeffrey.Lewis@ontario.ca or 647-261-7268

Original signed by

Romina Di Pasquale
Director
Enrolment, Funding and Labour Policy Branch

Enclosures: ETFO Due Diligence Data Template

cc: Directors of Education
Ontario Public School Boards' Association
Ontario Catholic School Trustees' Association
Andrew Davis, Assistant Deputy Minister
Doreen Lamarche, Executive Director, Education Finance Office
Cory Mitic, Director, Labour Relations Operations Branch